

In re: Nicolette
USSN: 09/922,405
Filed: August 3, 2001
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Remarks

Claims 1-9 are pending in the subject application and are subject to a restriction requirement and species election.

Requirement for Restriction under 35 U.S.C. § 121

In the February 5, 2004 Office Action, the Office required restriction under 35 U.S.C. § 121 to one of the following allegedly independent and distinct inventions:

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|-----------|---|
| Group I | Claims 1-3, drawn to compositions comprising immunogenic ligands classified in class 424, subclass 185.1. |
| Group II | Claims 4-8, drawn to host cells comprising immunogenic ligands, classified in class 435, subclass 325. |
| Group III | Claim 9, drawn to a method of inducing an immune response, classified in class 424, subclass 185.1. |

In the March 5, 2004 Response, Applicant's undersigned attorney elected, with traverse, the invention of Group I, claims 1-3.

Species Election Requirement under 35 U.S.C. § 121

In the February 5, 2004 Office Action, the Office further required Applicant to specifically elect "at least two species" from the Markush group, which will be considered for prosecution on the merits.

- a) SEQ ID NO: 3;
- b) SEQ ID NO: 5;
- c) SEQ ID NO: 7;
- d) SEQ ID NO: 9;
- e) SEQ ID NO: 11;
- f) SEQ ID NO: 13;
- g) SEQ ID NO: 15;
- h) SEQ ID NO: 17;
- i) SEQ ID NO: 19;
- j) SEQ ID NO: 21;
- k) SEQ ID NO: 23; and
- l) SEQ ID NO: 25.

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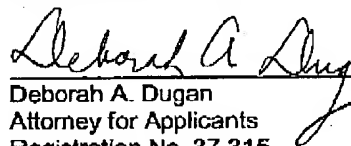
In the Notice, the Office clarified that Applicant was required to elect a *single* species of the claimed invention by specifically identifying "*not less than two*" of the members of the Markush group. Applicant's undersigned attorney thanks Examiner Rawlings for the clarification provided.

Applicant hereby elects as the species for prosecution on the merits a composition comprising the following immunogenic ligands: SEQ ID NO: 3, SEQ ID NO: 5, SEQ ID NO: 7, SEQ ID NO: 11, SEQ ID NO: 13, SEQ ID NO: 15, SEQ ID NO: 17, SEQ ID NO: 19, SEQ ID NO: 21 and SEQ ID NO: 23.

CONCLUSION

No fee is believed necessary in connection with the filing of this communication. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 07-1074.

Respectfully submitted,



Deborah A. Dugan
Attorney for Applicants
Registration No. 37,315
Telephone: (508) 270-2598
Facsimile: (508) 872-5415

07/01/04
Date

GENZYME CORPORATION
15 Pleasant Street Connector
P.O. Box 9322
Framingham, Massachusetts 01701-9322